

STORY COUNTY



PLANNING AND DEVELOPMENT

STORY COUNTY ADMINISTRATION
900 6TH STREET
NEVADA, IOWA 50201-2087

“Commitment, Vision, Balance”

MINUTES

STORY COUNTY

BOARD OF ADJUSTMENT

AN AUDIO RECORDING OF THE FULL MEETING MAY BE FOUND IN THE PLANNING AND DEVELOPMENT DEPARTMENT, OR BY VISITING WWW.STORYCOUNTYIOWA.GOV

DATE: June 21, 2023	Matthew Neubauer, Chair	2026
	Andrew Friend	2027
CALL TO ORDER: 4:00 pm	Kelli Excell	2023
	Nathan Hovick	2024
PLACE: Public Meeting Room	*Elara Jondle	2024
In the Administration Building	*Absent	

Special Note: Members of the public could also participate via Zoom.

STAFF PRESENT: Amelia Schoeneman, Director; Marcus Amman, Planner; Andrea Wagner; Planner and Recording Secretary

PUBLIC PRESENT: Alan Metz, Jennifer Adams, Judy King, Jeff Gibbons (Zoom), Bob Gibson (Zoom)

APPROVAL OF MINUTES:

MOTION: Excell moved to approve the minutes as is.

Motion: Excell

Second: Friend

Voting Aye: (MCU)

Voting Nay: None

Not Voting: None

Absent: Jondle

PUBLIC COMMENTS: None

PUBLIC HEARING: CUP23-000005 Sunny Heights Bed & Breakfast and Events Venue

Marcus Amman presented on the CUP23-000005 Sunny Heights Bed & Breakfast and Events Venue.

Friend asked if the 75-person restriction was based on the septic system. Amman confirmed. Schoeneman added that if they enlarged the septic system they could come back and request an increase.

Hovick asked what was the maximum amount of people they could have based on square footage. Amman responded they do not have the architectural drawings yet, but based on state code about 109.

Neubauer asked Amman to explain the kitchen limitation. Amman explained use of the kitchen is limited to only for events that are going to take place there, not offsite. Schoeneman added that this is because of the zoning.

Friend commented that kitchen restriction is based on zone, not septic. Schoeneman confirmed.

Excell asked what would happen if client asked if the event could go past 10:00 pm. The applicant responded his answer would be no.

Neubauer asked about rural water vs. well. Amman said there is no rural water line and the DNR said they could do a private well. Schoeneman said they could go through the process with the DNR to do a public well and then have the cap eliminated on the number of events/attendees for the private well's usage.

Hovick asked if applicant had a problem with the 60-events limit. The applicant replied no.

Alan Metz, the applicant, spoke about the history of the property. The name Sunny Heights was on their abstract from 1917. He is also wanting to fulfill his recently late wife's dream.

Hovick asked if applicant had any concerns with any of the 19 conditions recommended. Applicant said they were agreeable, and he rather have the curfew at 10:00 pm so they can be done cleaning up by midnight.

Excell voiced her concern about the curfew time and suggested it goes until 11:00 pm and applicant could still enforce 10:00 pm.

Amman told the Board it was possible to move the time, they just needed to modify the Findings of Fact with a reason. Excell and Hovick agreed.

Friend asked the applicant if he was planning on allowing outdoor music. The applicant said potentially small groups but that the nearest neighbors are far away. Friend followed with a question if music could be limited to go until 10:00 pm and still allow events to go until 11:00 pm. Amman clarified music and events are two separate conditions, so music could stay until 10:00 pm and event be modified to 11:00 pm.

Excell asked what the distance was between them and the closest residential neighbor. Amman responded 450 feet to the northeast and topography and trees in the area help buffer sound.

Neubauer said there was only one modification to the Findings of Fact, which was to establish the rationale to move the event ending time from 10:00 to 11:00 pm. Amman added also the DNR recommendation was a modification.

Motion: Neubauer moved to amend the Findings of Fact presented by staff, based on testimony, comments received after the posting of the staff report from the DNR on the availability of rural water, and past practice. The amended findings relate to a new condition that there are no more than 60 events per year with 25 people or more are permitted while using a private well. Also, an amended condition to move the events ending time from 10:00 pm to 11:00 pm.

Second: Friend

Voting Aye: Hovick, Excell, Friend, Neubauer

Voting Nay: None

Not Voting: None

Absent: Jondle

Motion passed.

Neubauer opened and closed public comments.

Board reviewed recommendations. Excell asked for clarification if condition number six was the one that would be changed. Schoeneman said number 6 and 17 would change based on the Findings of Fact.

Motion: Hovick moved to approve the Findings of Fact as amended.

Second: Excell

Voting Aye: Hovick, Excell, Friend, Neubauer

Voting Nay: None

Not Voting: None

Absent: Jondle

Motion passed.

Motion: Friend moved that the Story County Board of Adjustment approves Alternative number two: The Conditional Use Permit for the Sunny Heights B&B and Event Venue as put forth in case CUP23-000005, with the conditions presented and conditions modified that events end at 11:00pm and that no more than 60 events per year with 25 people or more are permitted while using a private well, as follow:

1. Building plans for the event venue will be approved by the State Fire Marshal's Office for compliance with state adopted fire code. Story County Planning and Development shall not issue any zoning or grading permits until compliance with state fire code is confirmed by the State Fire Marshal's office.
2. Building plans for the event venue shall be created by a licensed architect in order to be in compliance with state adopted fire codes if required by the state.
3. If an electrical permit is required through the state's Electrical Licensing and Inspections bureau, the applicant or their contractor shall acquire one.
4. The Bed and Breakfast and limited events venue shall comply with all applicable supplemental standards of 90.08(5).
5. The number of guests allowed to attend events at the venue shall be capped at 75.
6. Events shall end at 11:00pm, which allows an hour for clean-up so that activity associated with events ends by midnight.
7. Any outdoor, amplified music shall end at 10:00pm.
8. No candles shall be used at the event venue for fire safety purposes.
9. The kitchen is limited to being used for evens on site and cannot be used for any meal preparation for any events or other food service off site.
10. Septic system must meet County or DNR requirements regarding all waste water generation including from the commercial kitchen. The commercial kitchen shall not be installed without appropriate septic permits and an interior inspection shall be required to confirm compliance.
11. Parking requirements of no more than 19 spaces must be followed.

12. Prior to any installation of the parking area, an inspection by the county is required.
13. County lighting requirements of fully shielded luminaries of 1800 lumens or greater must be followed.
14. A sign permit must be obtained for any signage.
15. Native grass landscaping will be planted to meet the landscaping requirements of 20% of the parking area must be installed.
16. All applicable regulations in Chapter 88 of the Story County Code of Ordinances must be followed.
17. No more than 60 events per year with 25 people or more are permitted while using a private well.
18. Annual well sampling for the bed and breakfast is required.
19. No parking on Templeton Road is permitted.

Second: Excell

Voting Aye: Friend, Excell, Hovick, Neubauer

Not Voting: None

Absent: Jondle

Motion passed.

PUBLIC HEARING: Case No. ADD23-000001: Appeal of Director's Decision

Amelia Schoeneman presented the Appeal of Director's Decision.

Friend asked about the 2019 Ordinance change to requiring access for new lots off a public road instead of an easement, if the area was platted before that change, and if that could be considered to be the change in the code making these structures legal nonconforming, even after the proposed platting.

Schoeneman responded it could be but when you have something that is non-conforming it can be maintained but when you intensify the use it has to be brought to current standards.

Neubauer asked if the subject properties with non-conforming structures were part of the group applying for the subdivision.

Schoeneman answered the one to the south of the road is, the one to the north is not but they may be interested in joining the subdivision, but regardless they both be part of the subdivision because the easement area has to be divided from their lot.

Excell asked if the easement is currently a two-lane road. The applicant Jeff Gibbons responded it is and it's 22 feet wide.

Excell asked as a clarifying question if nothing gets changed or widen but just paved, is this an improvement. Schoeneman confirmed.

Schoeneman presented the ordinance on nonconforming structures and what the original decision was based on.

Excell asked if all parties are on board with their lot lines being moved. Gibbons stated if the appeal gets approved and buildings don't have to be moved then he will have conversations with the Underwoods but they are aware of what is happening. Schoeneman clarified that the Underwoods would have to consent to platting.

Friend asked if the subdivision is going all the way to the west end of Dayton Parkway. Schoeneman stated it will go all the way to the end of the Gibbons Property, where there will be a cul-de-sac.

Friend asked if the road would be curved or have ditches. Schoeneman said it will have ditches. Gibbons referred to the pictures of the road on the presentation. Schoeneman showed the structures in question on the pictures and explained there is no visibility issues caused by the structures in question.

Hovick clarified the decision of the Director.

Hovick clarified this would not impact future (new) buildings.

Neubauer asked about this issue not happening in the future because access easements are no longer allowed. Schoeneman confirmed.

Friend asked Schoeneman to go through her thought process. Schoeneman said the key is in the 91.02 Nonconforming Uses (2) where it says "where a structure exists at the effective date of the adoption or amendment to the ordinance" then it can be considered legal nonconforming. The subdivision plat is not an amendment to the ordinance.

Excell asked how to word the finding. Schoeneman responded to refer to the findings of fact and the unique circumstances in the staff memo.

Friend asked what types of structures are the ones in question. Schoeneman and applicant answered one is an office space and the other one a barn and the structures are on a slab.

Schoeneman added the access easement itself is currently legal non-conforming.

Neubauer suggested they amend the Findings of Fact.

Excell asked how many acres are trying to be accessed. Gibbons responded approximately six acres, and provided some background on the area, roads and buildings.

Excell asked again if neighbors could refuse to subdivide. Schoeneman responded that it was their right to consent or not.

Gibson clarified his thoughts on a technicality to try to split even the road from each property.

Excell asked if it remains a private road. Schoeneman responded it will be publicly dedicated privately maintained once platted.

Motion: Hovick moved to approve the Findings of Fact presented by staff.

Second: Excell

Friend offered a friendly amendment to also find that because the use of access easements themselves is now legal nonconforming due to a change in the ordinance in 2019 that the legal nonconforming status also applies to the structures whose setback was previously measured from the center of the easement even after platting and dedication of new road right-of-way.

Hovick and Excell accepted the Friendly Amendment.

Voting Aye: Hovick, Excell, Friend, Neubauer

Not Voting: None

Absent: Jondle

Motion passed.

Motion: Excell moved to approve the Findings of Fact as amended and as follow:

- Because the use of access easements themselves is now legal nonconforming due to a change in the ordinance in 2019 that the legal nonconforming status also applies to the structures whose setback was previously measured from the center of the easement even after platting and dedication of new road right-of-way.
- When the County acquires additional road right-of-way for improvements, staff does not require structures that, as a result, no longer meet setbacks be moved or removed. While in the example situation there is a clear public benefit for the road improvements, there would be benefit in paving the access easement and improving it to meet road standards.

- Further, when platting subdivisions where there are existing structures, staff typically requires that lots be configured so that all rear and side setbacks are met. Front setbacks are determined by where a lot takes access. Staff does not make any nonconforming structures with regard to front or corner lot line setbacks come into conformance as part of a platting since the road where access is taken from is already in place. While the appellant's situation is different in that the drive is not a publicly dedicated road, and will require a new street lot and lot line to be established, it is not dissimilar in that the property owners do not have control over where the drive was historically located and how structures have been situated around the current location.
- The purpose of enforcing setback requirements relates to building separation and uniform location, providing light and air between buildings, separation from roadways for inhabitant and motorist safety as well as access to utilities and the right-of-way for maintenance and upkeep. The applicant has provided photos of the structures for the Board's consideration in Appendix A.
- The structures are accessory structures (not principal buildings such as a dwelling)
- The structures were approved through zoning permits and/or meet all other requirements of the ordinance
- The nonconforming setback is from a front or corner lot line
- There is a current drive with access easement over the property that is to be platted as a publicly dedicated road
- The access easement is larger in size than the required road right-of-way
- There are a limited number of additional lots being created (three)
- No line of sight issues are anticipated. Staff completed a site review to determine if there would be any visibility issues with the future proposed lots.
- The appeal only applies to further platting of 2305 Dayton Ridge Road, legally described as DAYTON RIDGE PLAT 1 LOT:4 SECTION:24 TOWNSHIP:84 RANGE:24, STORY COUNTY, IOWA, and the structures affected thereby as outlined in this memorandum

Second: Friend

Voting Aye: Excell, Friend, Hovick, Neubauer

Voting Nay: None

Not Voting: None

Absent: Jondle

Motion passed.

Motion: Excell moved to adopt the Alternative 2 to overturn the Director's decision.

Second: Hovick

Voting Aye: Excell, Hovick, Friend, Neubauer

Voting Nay: None

Not Voting: None

Absent: Jondle

Motion passed.

PUBLIC HEARING: CUP23-000003 Story County Disaster Debris Management Site.

Amelia Schoeneman presented on the CUP23-000003 Story County Disaster Debris Management Site.

Excell asked clarification on what areas of the county would use the site.

Excell & Hovick stated that events can run together and that FEMA can take over a year for reimbursement.

Excell asked about the deed restriction. Schoeneman provided more information and stated the deed says this site cannot be use for permanent landfill.

Neubauer asked for clarification on that condition about the site not being permanent, if the site is not done until FEMA's closeout. Schoeneman clarified that is how she would interpret it but there may have disasters FEMA is not involved in.

Hovick asked if staff thinks County resident would actually use the site. Schoeneman said yes, if the disaster is big enough the county would apply for FEMA reimbursement to pick up the debris.

Friend stated he thinks the concern about a permanent landfill is for non-vegetative debris. Schoeneman said they could make a modification.

Hovick stated interest in modifying the CUP with a condition that the County provide its own insurance coverage for when burning is proposed.

Neubauer opened and closed public comments.

Motion: Excell moved to amend the Findings of Fact to support the additional and modified conditions including satisfying the standard that there is no undue hazard from fire requires the County to provide its own insurance for any burning of debris and that the Board found, based

on the applicant's testimony, the Commission's concern with debris on the site for more than a year was limited to non-vegetative debris, so will be proposing to change their recommended condition accordingly

Second: Hovick

Voting Aye: Excell, Hovick, Friend, Neubauer

Voting Nay: None

Not Voting: None

Absent: Jondle

Motion passed.

Motion: Excell moved to approve the Findings of Fact as amended.

Second: Friend

Voting Aye: Excell, Friend, Hovick, Neubauer

Voting Nay: None

Not Voting: None

Absent: Jondle

Motion passed.

Motion: Excell moved to adopt the Alternative 2 with modifications as discussed and as follow:

1. All requirements of the purchase agreement shall be met (perimeter barrier erected, no permanent landfilling use allowed).
2. When in use, dust control or water shall be applied to 160th and the site as necessary to take reasonable precautions to prevent fugitive dust, per Iowa Department of Natural Resources requirements.
3. The County exhaust all other options for disposal and reuse prior to burning vegetative debris.
4. The site may be used for one year per event for non-vegetative debris. Additional time may be requested and requires a modification to the permit.
5. The County shall provide its own insurance coverage for any burning of debris.

Second: Hovick

Voting Aye: Excell, Hovick, Friend, Neubauer

Voting Nay: None

Not Voting: None

Absent: Jondle

Motion passed.

COMMENTS

Staff: None.

Board: None.

MOTION: Excell moved to adjourn the meeting.

Motion: Excell

Second: Hovick

Voting Aye: MCU

Voting Nay:

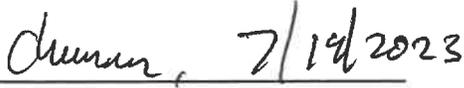
Absent: Jondle

Motion passed.

ADJOURNMENT: 5:28 PM



Approval of Minutes



Title and Date